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tion of the Economic Research Service of the Department of Agriculture.

I know I am looking forward to the benefit of his remarks, and I am sure that all of us will benefit from them. Mr. Stocker.

MR. FREDERICK D. STOCKER: Thank you, Mr. Chairman, Ladies and Gentlemen:

HOW SHOULD WE TAX FARMLAND IN THE RURAL-URBAN FRINGE?

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In the last several years, the property tax, throughout its history the target of so much criticism and the victim of so much tax tinkering, has been subjected to a new assault. And those to whom it falls to defend its integrity have received a new call to arms. This time, the attack has come from those who contend that the property tax is extinguishing farming in a zone extending out many miles from the edge of growing cities. The aim of these reformers is to modify the ad valorem tax so as to reduce taxes on farmland in the rural-urban fringe.

Behind this movement are some powerful forces. Farm groups generally have backed them. But they have not been alone. Vigorous allies have been found among city dwellers who, whether through some ancestral or perhaps vicarious connection with farming and rural life, feel strongly about the need to preserve the agricultural character of the countryside.

The movement has scored several notable successes and suffered several equally notable setbacks. Within the last 5 years, proposals to hold down taxes on farmland in the rural-urban fringe have been put forward in the legislatures of at least 12 States. In all except four of these States, the bills failed of enactment or are still under consideration. Maryland, California, Florida, and New Jersey, however, have enacted legislation. Although the wording varies, the laws are similar in requiring that land used in agriculture must be assessed according to its "agricultural value," without regard to other factors that may affect its market value.

These so-called "preferential assessment" laws have had less success in the courts than in the legislatures. The Maryland law, enacted

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in 1956 over the Governor's veto, was voided by the State Court of Appeals in 1960. A constitutional amendment was then put through, and approved by a lopsided majority in last November's election. At the present time, Maryland is the one State that is actively pursuing a policy of preferential assessment.

In Florida, the so-called Greenbelt Law adopted in 1959 without the Governor's signature, was declared unconstitutional earlier this year in a lower court, and as this is written, it is before the Florida Supreme Court on appeal.

The California law has not become fully operative. The law is limited in its application to "property which is zoned and used exclusively for agricultural, airport or recreational purposes, and as to which there is no reasonable probability of the removal or modification of the zoning restriction within the near future, . . ." The State Attorney General has ruled that the law merely reaffirms the rule that assessors must take realistic account of zoning, among other value-determining factors.

In New Jersey, within the last few weeks, the Supreme Court has ruled this provision of New Jersey's 1960 tax law unconstitutional.

However, legislation alone does not reveal the full extent to which farmland in practice is given preferential assessment. It is probable that in most jurisdictions farmland is regularly assessed by procedures that recognize nonagricultural influences on farmland value imperfectly if at all.

It is worth noting that the present attack on the property tax unlike so many others does not arise from faulty administration. On the contrary, it is an effort to block strict enforcement of the letter of the law, and to give legal sanction to a common form of assessment inaccuracy. It seeks to modify the cardinal principle of ad valorem taxation—that property be taxed according to its value.

What is the problem that has given rise to such concern? What is it that, as in Maryland, leads an almost unanimous legislature to vote special laws and some two-thirds of the voters to approve a special amendment to the State Constitution? What effect does straight ad valorem taxation of land used in agriculture have, that even those who have no direct personal stake urge so strongly that it be altered?

The problem is a variant of the familiar question that arises in any transition zone, over assessing and taxing property that is held in a use other than its most profitable use. When used in agriculture, the land produces an income and supports a value that is only a fraction of what a developer or foresighted investor would pay for it. Under laws that require assessment of property at full and true value, or some fraction thereof, the conscientious assessor must assess the land according to its value for nonfarm use. Thereupon the farmer, who often barely covers operating expenses from current income, and who probably realizes that the longer he holds onto his land, the better

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is his chance of maximizing his capital gain, complains that the higher tax will make it impossible for him to retain ownership and probably operation of his land. Thus it is concluded that, because of taxes, farmers are being forced out and land speculators are allowed to take over.

The principal arguments advanced for modification of the ad valorem principle as it applies to farmland in the rural urban fringe seem to be: (1) that taxation of this land at market value has undesirable effects on land ownership and use, specifically the destruction of part of our agricultural production capacity, and the loss of open spaces that are becoming increasingly valuable to an urbanizing society; and (2) that it is unfair.

Let us consider first the question of fairness. Is it fair to tax the owner of farmland that has become valuable as a potential site for a residential subdivision on the basis of this higher market value? By either of the customary criteria of tax equity, the answer seems to be "no." If we judge fairness of the property tax on the basis of benefits received—a dubious proposition at best—surely higher taxes on such land are not warranted. Nor has the property tax ever been accorded high marks on its relation to ability to pay. If we accept income as the measure of ability, the divergence between tax and ability to pay is nowhere more apparent than in the case of farmland in the urban fringe.

The economist may quite properly point out that the property tax is not intended as a tax on income, but on the value of property owned. He may remind us that fair taxation requires equal treatment of similarly situated taxpayers. But this argument has no effect against one who maintains that owners of equally valuable property are not similarly situated if their incomes differ, and that a tax on property value becomes unfair when it fails to accord with income.

In a sense, the owner of an exceptionally desirable piece of undeveloped land does have ability to pay. He can always sell his property, take his gain, and if he wishes to farm, go farther out in the country to do it. I shall not go into the question as to whether, in a market as imperfect as that characteristic of the urban fringe, the farmer realistically can sell out at any time, except perhaps at a knock-down price. The question of fairness however, requires some consideration of the matter of who is to reap the gains from rising land values. The owner of farmland feels, perhaps justly, that when this once-in-a-lifetime opportunity comes along, he must make the most of it. But this is not so easy. Assume that the farmer has the emotional stability to bear the risk and uncertainty of holding on to his valuable land, to resist the blandishments of real estate operators, and to surmount the difficulties of carrying on farm operation in a semi-urban environment. Granted all this, if he is dependent on the farm for his current income, it is not likely that he will have the financial staying power to hold on, meet his

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taxes and other operating costs, and capitalize fully on his opportunity. There are exceptions—some farmers are well financed and well able to hold their own in any market—but it takes only a glance at the statistics on average farm incomes to realize that they are, in reality, exceptions.

In urban fringe areas, the property tax is most onerous on those who are financially the weakest. The typical farmer, I am convinced, lacks the financial strength to maximize his capital gain. At some point, he is forced to let his land go for what he can get and turn it over to an investor to whom annual taxes of, say, 1 percent of market value is a small price to pay for the opportunity to hold a choice piece of undeveloped property.

The real estate market in the rural-urban fringe, in other words, is much like a poker game, in which huge profits can be made by the bold, clever, and well financed. But the stakes are high, and the ad valorem tax serves to raise the ante. The usual result is that the farmer is bluffed out before the game gets fairly under way.

I might add that owners of farmland are understandably cynical over the opportunity to sell out to an investor when they are convinced, as many are, that speculators are themselves instrumental in persuading assessors to raise assessments on fringe-area farmland, hoping to be able to buy up the land at bargain prices.

Apart from the question of equity, there are effects on land use to be considered. It is hard to measure the effect of property taxation on land use, but the direction of its influence can be established. I suggest that whatever influence the tax has is in the wrong direction.

The relation of a land value tax to land use was thought through long ago by the single-taxers, who stressed its tendency to speed land into higher uses, by squeezing the owner's income. The owner of under-developed land would be placed under some pressure either to develop his land in its highest (i.e. most profitable) use, or to sell to someone who would do so.

I think it is necessary, however, to question whether the most profitable use of land is likely to be the most desirable from the viewpoint of society at large. In an earlier day it was perhaps possible to believe, with Adam Smith, that each owner, by seeking the most profitable use of his land, would automatically benefit his neighbors. Today, such a belief is patently naive. Public support for land use plans and the very existence of such controls as zoning offer proof that in this day and age society will no longer permit the property owner to use his land most profitably unless such use is consistent with the overall welfare of the community. So we must avoid the easy assumption that the most profitable use of land is the most desirable, and that the ad valorem tax or any other measure that encourages the most profitable use of economic resources is automatically good.

There are reasons, indeed, for believing that the ad valorem tax fosters a socially undesirable pattern of land use in the rural-urban

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fringe. The tax adds to pressures that force land out of agriculture long before it is ready for some other use. Many years may elapse between the time when land becomes too valuable and too heavily taxed for the farmer to hold, and the time when, in the hands of an investor, it reaches its optimum for development. I refer to the so-called ripening process, about which we know relatively little except that is exists.

Of course, it is not inevitable that farming cease during this period. While awaiting the opportune moment for development, the owner may lease the land to a farmer, perhaps even the former owner, and perhaps at a rent that will cover the taxes. But such an arrangement is not always feasible. To the nonfarm investor whose eye is on the big prize, the modest rental income may not warrant the bother of seeking a tenant. In a semi-urban environment, farm operators willing and able to enlarge their operations by renting more land are not always easy to find. The insecurity of tenure on land held for future development also may scare away potential tenants.

The more common result is that land is left idle, once it comes into the hands of an owner who regards is as a source of capital gain instead of farm income. Farm buildings abandoned to deteriorate become an eyesore; fields, abandoned and eroding, produce mud and silt for streams, brush to blight the landscape, and weeds to plague all hay-fever sufferers.

Sometimes, instead of idle land, ad valorem taxation fosters premature development of land in uses that are inconsistent with the optimum development of the entire area. Where this occurs, both the individual property owner and the community at large suffer. A farmer who finds his land assessed at a value commensurate with its worth as building lots may be impelled to subdivide a portion of his property and try to sell a few lots. His hope, perhaps, is to receive enough to pay his taxes, make ends meet, and enable him to hold on a little longer. Often he succeeds only in ruining the value of his property for later development, and leaves the community a legacy of scattered homes and strings of developed properties along roads.

I hasten to emphasize that I do not regard taxation as the main cause of haphazard suburban development. The opportunity for quick profit from sale of lots must surely be regarded as a much more powerful incentive than the pressure of rising property taxes. But as the single taxers pointed out, the tax intensifies this incentive toward rapid development.

Another problem in the application of strict ad valorem taxation to fringe-area farmland is the difficulty of obtaining an accurate assessment. Sales of comparable property, I suspect, are misleading indicators of the market worth of properties. The comparable sales method is theoretically valid only in a perfect market, where land is homogeneous and available in unlimited quantity, and where there are many potential buyers and sellers, all of whom have full knowledge of the market and equal access to it—and under static conditions. Most seg-

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ments of the real estate market (notable exceptions are the markets for industrial and public utility property) approximate these conditions well enough so the assessor can ignore imperfections. Most segments also are sufficiently static that he can assume that a sale at one time is indicative of value at another. I believe that the market for farmland on the developing urban fringe is so dynamic and so highly imperfect that comparable sales provide no valid basis for assessment. Market value is an elusive concept at best; here it is a will-o-the-wisp.

To meet the problems just described, various remedies have been put forward. The simplest is what I have referred to as preferential assessment. Under this arrangement, farmland is assessed at its value for agricultural use, irrespective of other value-determining influences. There are other remedies, including tax deferrals, taxes on capital gains, and devices resembling the severance tax or the Wisconsin forest crop law. I shall comment later on one or two of these. Basically, however, I regard them as variants on preferential assessment.

What can be said about the land use and ownership effects of a policy of holding down assessments on farmland, and what about its equity?

Obviously one effect of preferential assessment is to reduce tax pressures on owners to sell. The tendency will be to strengthen the position of owners of land relative to that of prospective buyers; therefore, it will be in the direction of slowing the pace at which land moves into higher value uses. To the extent that farmland is owned by farm operators, lower taxes will tend to preserve agricultural operations. When land is held primarily as an investment, tax abatement will enable owners to defer development a little longer. However, as noted earlier, tax pressures influence investors less than those whose livelihood depends on income from the land.

It must be noted, however, that by restricting the availability of close-in land, preferential assessment may promote scattering of urban development. Large-scale developers, who reportedly have difficulty now in assembling land on a scale sufficient to meet their needs, would probably be obliged to offer even higher prices to persuade owners to part with their land. Here again, in the interest of proper perspective, it is necessary to stress that the property tax either under ad valorem or preferential assessment, exerts an influence that is distinctly minor compared with other forces affecting land use.

Many people defend preferential assessment of farmland on grounds of equity. If the owner is an operating farmer, his tax is more nearly in line with his current income, and he is allowed to enjoy the gradual development of his fortune without added harassment from the tax collector. Lower assessment is justified also in the eyes of those who think of the property tax as a payment for benefits received, on the ground that as long as the land is undeveloped, it requires little in the way of additional public services.

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From the viewpoint of tax equity, preferential tax assessment contains one glaring weakness. It confers a unilateral benefit on the owner of agricultural property, while requiring nothing of him.

In return for this favored tax treatment, he makes no pledge as to the continued agricultural use of his land. He gives his neighbors no guarantee that the open spaces they think they are preserving will actually be preserved any longer than it is in his own interest to do so. He is not even under any compulsion, if he does develop his land or sell it for development, to see that the development pattern conforms to any overall community plan. What is more, he is free, when he finally does sell his farmland to a developer, to pocket his entire gain (subject only to the capital gains tax). In short, he owes the community nothing.

To me, it seems only equitable to require a quid pro quo. In exchange for preferential assessment, the owner of farmland ought to be required to repay the community the abated taxes, perhaps with interest, at the time he sells his land. Such an arrangement would resemble the tax-deferral proposal considered by the 1961 legislatures of Nevada and Hawaii and put on the ballot for referendum by the California legislature. In addition, I believe the interest of the community at large requires as a condition for preferential assessment or tax deferral that the owner accept some limitations on the future use of his land. Preferred-tax treatment could be limited to land earmarked or zoned exclusively for agricultural use, as was specified under the 1957 California law. More thoroughgoing would be a requirement that the owner divest himself of his development rights, placing them in trust for public use. In this case, the market value of the property rights he retains would approximate the agricultural value of the land and could be taxed accordingly.

Failure to establish a quid pro quo has become the source of much difficulty in Maryland. There the law provides that "land used in agriculture" shall be accorded preferential assessment. Substantial amounts in taxes thus turn on the question whether a particular piece of land is or is not "used in agriculture." Does cutting hay, for instance, constitute agricultural use? Or grazing a cow? Or, if not one cow, would 2 be sufficient? Or 5? Or 10? Thus far neither the legislature, the courts, nor the Tax Commission have developed an objective definition of agricultural use. The question is left to individual assessors and their general knowledge of the property and of the owner. This is clearly an unsatisfactory arrangement.

The distinction between eligible and ineligible property and the equity problem in singling out one group of property owners for tax relief become far less crucial if, instead of outright forgiveness, the tax due on that portion of the assessed value that represents urban or speculative value is deferred until the property is sold or developed.

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The deferred taxes would be carried along as a lien against the property. The alternative then would be tax now or tax later, and not tax or no tax. The deferred taxes could, if desired, be coupled with an interest charge to assure mathematical equivalence. Even without interest, it would seem to me that the choice between straight ad valorem taxation and deferral of a portion of the full tax would be almost a matter of indifference and could indeed be left to the option of the taxpayer.

Much of what I have said may appear to be concerned with symptoms rather than with the basic problem. Preferential assessment of farmland and tax deferrals involve tinkering with assessed values. But the basic problem is the speculative scramble for undeveloped land near growing cities. If higher assessed values in the urban fringe are an out-growth of a speculative rise in farmland values, one answer to the problem, and indeed the obvious one, is to restrain speculation. Viewed in these terms, direct measures to control land use are the appropriate means to preserving farmland and open spaces and tax abatement proposals take on an auxiliary role.

The central deficiency in almost all proposals for holding down farm taxes is that they have not been conceived as an adjunct to an over-all plan for development of land resources. They are regarded instead as a cheap and relatively painless substitute for comprehensive planning. As I have indicated, tax abatement alone cannot guarantee a desirable pattern of land use. Where there is no plan, urban sprawl is almost inevitable.

But where a community has formulated a clear plan for regional development, setting out zones for single family housing, industry, shopping centers, apartments, parks and farmland, there is a positive and constructive role for some form of tax abatement on land designated for agriculture. If, as part of this plan, steps are taken to contain speculation and hold down the market value of those lands that will not and should not be developed for some years to come, the need for special tax measures is perhaps less acute. But land use controls are seldom completely effective in containing the upward pressure on land values. To the extent that values do rise, it is both equitable and in the interest of desirable land use to institute some form of tax preference, integrated with and administered as part of an over-all development plan. Tax deferral, in my view, is more equitable and easier to enforce than outright tax abatement as provided under preferential assessment laws.

Where there is no plan to control development of land, the case is less clear. Nevertheless it is my opinion that even in the absence of a comprehensive land use plan, tax deferral has equity and land use effects that, on balance, are preferable to those associated with straight ad valorem tax. Without such a plan, however, we should not expect tax deferral in itself to accomplish much toward preserving open spaces or agricultural production.

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In expressing these conclusions, I hope I do not sound too conclusive. Few communities have actually assessed fringe area farmland according to full value except recently, and I know of no empirical evidence on the effects of the ad valorem tax on land use in these areas. Experience with laws requiring preferential assessment is limited also, and no State has yet put a tax-deferral plan into operation. However, much experimentation is going on. A priori, these experiments seem to me to have a plausible rationale. When their results are known and analyzed we may perhaps be in a position to judge more confidently their appropriate role in the property tax system.

CHAIRMAN ELLIS: Thank you very much, Mr. Stocker. I hope all of you property tax experts in the audience recognize in the speeches we have so far heard that we are fortunate in having speakers, true experts, who don't attempt to be too conclusive about the specific answers to any of these problems. I think we all recognize that the more we work in the field, that the person who has all the answers, and knows all the answers, is the one who has had the least experience with the variety of problems that we are dealing with.

I know Mr. Nevins of California can very well take over now and devote considerable time in discussing California's problems in this fringe area tax, and I hope in their discussion we can get into that.

The next speaker will give us an opportunity to become a little less provincial in our thinking on property tax matters, because he is going to give us a thumbnail sketch of the property tax, and property tax problems as they currently exist in the Province of British Columbia. I know this will be an opportunity I have looked forward to so I might get a little education in the field of some Canadian property taxes the easy way. As on these other subjects, we have an extremely qualified person to deliver this particular lecture. He is Mr. J. O. Moore, whose title is Surveyor of Taxes for the Province of British Columbia. Now I am not up enough on my British terms here to know just the origin of the title of Surveyor, but I do know that he is the man in British Columbia who is in over-all charge of problems in the area of property valuation and property assessments. He is a graduate in economics from the University of British Columbia, and since his graduation has devoted, I think, all of his adult years of employment learning the tax problems of British Columbia, in the Office of the Surveyor, from the ground up, as it were, and up until the time of his appointment as Surveyor in 1957. I know he has some very interesting comments for us on the recent developments on property taxes in British Columbia.

May I present Mr. Moore.

MR. J. O. MOORE: Thank you. Mr. Chairman, Fellow Panelists, and Ladies and Gentlemen:

I noted the Chairman's comment on the expression "Surveyor of Taxes." I think it means one who values for a specific purpose, namely, the purpose of real property taxation.

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